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1 CROSS-EXAMINATION

2 BY MR. BLOCK: (Continued)

3 Q And then there's expenses associated with the extra  
4 testing, correct?

5 A Yes.

6 Q And the cost of the extra testing would be \$65,000,  
7 correct?

8 A (Reviewing document.) Yes.

9 Q Is that correct?

10 A Yes. The jury can't see that.

11 Q Okay. Should we show them?

12 THE COURT: No, no, no, no.

13 MR. BLOCK: Your Honor, I tried to get the  
14 testimony.

15 THE COURT: No, no, no.

16 MR. BLOCK: I can ask the question again, see if I  
17 can get a response.

18 THE COURT: Try it again.

19 Q The cost of the additional testing would have been  
20 \$65,000, correct?

21 A According to this document, yes.

22 Q Okay.

23 And Johnson & Johnson has never adopted the  
24 recommendation to do weekly TEM testing, not in 1978, not in the  
25 1980s, and not until all the way up until today, correct?

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1 A For these foreign talcs?

2 Q You cannot show this jury a document that shows Johnson  
3 & Johnson has ever done testing every week for talc to determine  
4 asbestos by TEM, can you, every week?

5 A For these foreign talcs?

6 Q No, sir.

7 We've looked at the material specifications that  
8 Johnson & Johnson has. And you recall that they have different  
9 test methods, 7024 for TEM, correct?

10 A Yes.

11 Q They say how often the testing is to occur, correct?

12 A Yes.

13 Q And isn't it true that the material specifications  
14 Johnson & Johnson has for the testing of its talc by TEM does  
15 not require the talc to be tested every week, correct?

16 A Right. We're now back in the U.S.

17 MR. BLOCK: I move to strike everything after  
18 "right," your Honor.

19 THE COURT: Reask the question.

20 MR. BROCK: Objection.

21 THE COURT: Overruled.

22 Q Let me ask the question again.

23 The material specifications that Johnson & Johnson  
24 have for the testing of its talc in the United States does not  
25 require the talc to be tested on a weekly basis, correct, for

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1 asbestos?

2 A Not on a weekly basis.

3 Q All right.

4 And this -- and do you have any document that you  
5 can show the jury that Alternative 1-A as outlined in this  
6 document, was adopted by Johnson & Johnson?

7 A Alternative 1-A testing for --

8 Q Yes, we have a proposed alternative --

9 A I just want to make sure we're on the same page.  
10 You're saying Alternative 1-A for U.S. or worldwide or foreign?

11 Q I'm saying very clearly, this document that's in  
12 evidence for the jury, 835, sets forth this Alternative  
13 Procedure 1-A and there's a cost to it.

14 Do you have any evidence in writing that Johnson &  
15 Johnson ever adopted Alternative Procedure 1-A; yes or no?

16 A I do not.

17 Q Okay. Dr. Hopkins, I want to go back to where we left  
18 off yesterday and we were talking about Johnson & Johnson and I  
19 want to ask you about Johnson's Baby Powder and the manufacture,  
20 sale, distribution and testing of the product. Okay?

21 A Yes.

22 Q All right. And from the 1950s and even going back  
23 before the 1950s, up until 1972, was Johnson & Johnson the  
24 company that manufactured, sold, distributed and tested  
25 Johnson's Baby Powder?

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1 A Johnson & Johnson as an umbrella company, yes.

2 Q Okay. So Johnson & Johnson and you're referring to the  
3 company Johnson & Johnson, the Johnson & Johnson based in New  
4 Brunswick, New Jersey, correct?

5 A Yes.

6 Q Now from 1972 through 1978 until by December of 1978,  
7 there was a company called Johnson's Baby Product Company,  
8 correct?

9 A Yes.

10 Q So Johnson & Johnson, I'll put BPC, Baby Product  
11 Company, okay?

12 A Okay, yes.

13 Q Just to be clear, during these years, I think, up  
14 through December of 1978, Johnson & Johnson Baby Products  
15 Company was a division of Johnson & Johnson, correct?

16 A A subsidiary division, yes.

17 Q I want to make sure we agree here.

18 Up until December of 1978, we're talking about the  
19 period 1972 up until December of 1978, Johnson & Johnson Baby  
20 Products Company was part of Johnson & Johnson, it was a  
21 division and not a separate company during those years, correct?

22 A I don't know the company structure. I can't comment.  
23 It was called Johnson's Baby Products Company, but that's a  
24 legal area that I'm not familiar with.

25 Q Can we go to your deposition testimony from

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1 September 27th, 2018.

2 So we're looking at your sworn testimony from  
3 September 27th, 2018, and Page 39 Line 3. All right.

4 Are you there?

5 A Yes.

6 Q Okay. So this is your sworn testimony on  
7 September 27th, 2018:

8 "QUESTION: You will agree that Johnson & Johnson  
9 Baby Product Division in the 1970s up through 1978 was, was  
10 not a separate corporation distinct from Johnson & Johnson,  
11 correct?

12 "ANSWER: Baby, Baby Products Company initially  
13 was a division of Johnson & Johnson, it was a division.

14 "QUESTION: Yes.

15 "ANSWER: And it later became a separate company."  
16 Was that your testimony?

17 A Yes.

18 Q Okay. So it was a division of Johnson & Johnson up  
19 through 1978 and later --

20 MR. BROCK: Excuse me.

21 Q -- became a separate company, correct?

22 MR. BROCK: I would ask the next question and  
23 answer be read to the jury for completeness.

24 THE COURT: I can't see what it is.

25 MR. BROCK: I'll show you, your Honor. This

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1 question right here (indicating).

2 MR. BLOCK: Sure. The next question and answer.  
3 It's the same thing.

4 MR. BROCK: No. And "J&J admits," the question  
5 begins "J&J admits."

6 MR. BLOCK: Your Honor, that's for redirect.

7 THE COURT: That's for redirect. Thank you.

8 Overruled.

9 Q Then on Page 13 of the same deposition, you said:

10 "QUESTION: Up until 1978, it was not a separate  
11 corporation, it was simply a division, correct?"

12 Your answer was: "Correct."

13 Right?

14 A Yes.

15 Q So then from 1979 and I'm going to go up to today, this  
16 Johnson & Johnson Baby Product Company has had a number of names  
17 going up until today, correct?

18 A It has, yes.

19 Q All right. And so today, the name is called Johnson &  
20 Johnson Consumer, Inc., correct?

21 A Yes.

22 Q All right. And the jury heard testimony and this is  
23 just a demonstrative exhibit that the names, we had Johnson &  
24 Johnson Baby Products Company, Johnson & Johnson Consumer  
25 Products, Inc., Johnson & Johnson Consumer Companies, Inc. and

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1 then from 2015 to the present, Johnson & Johnson Consumer, Inc.,  
2 And was that the progression of these different entities leading  
3 up until the name of the company that's called today Johnson &  
4 Johnson Consumer, Inc.?

5 A To the best of my knowledge, yes.

6 Q Okay. So from 1979 to today, Johnson & Johnson Baby  
7 Products Company which is now known as Johnson & Johnson  
8 Consumer, Inc. has been a subsidiary of Johnson & Johnson,  
9 correct?

10 A Yes.

11 Q Okay. And these companies, Johnson & Johnson Baby  
12 Products Company and the different names of these companies all  
13 up until today Johnson & Johnson Consumer, Inc., do they have a  
14 separate board of directors from Johnson & Johnson?

15 A I don't know. It's a legal question, company law is  
16 something I'm not familiar with.

17 Q Are you aware that Johnson & Johnson Consumer, Inc. has  
18 a board of directors?

19 A I believe it did. Whether it does today, I don't know.

20 Q Okay. All right.

21 So then Shower to Shower, I'll put up a little box  
22 here. We talked about Johnson's Baby Powder. So Shower to  
23 Shower.

24 Shower to Shower is not a baby product, correct?

25 A Correct.

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1 Q And Shower to Shower has been around for what, since  
2 1960?

3 A Very late sixties, yes.

4 Q So 1960s.

5 And Johnson & Johnson, what happened in 2012 with  
6 Shower to Shower in Johnson & Johnson?

7 A Oh, it was sold to, I can't remember another  
8 corporation, completely different.

9 Q Valiant?

10 A Valiant. Thank you, yes, on the tip of my tongue.

11 Q Did Johnson & Johnson keep, any I don't know, anything  
12 like ongoing, did they have any royalties or anything from that  
13 or they just out and out sold Shower to Shower to Valiant in  
14 2012?

15 A Again, that's their corporate law where I'm not  
16 familiar with.

17 Q And just so the jury understands, Shower to Shower has  
18 always been manufactured, distributed, sold and tested by  
19 Johnson & Johnson, correct?

20 A Some of the manufacture I think in recent years is  
21 subcontracted.

22 Q Right. What I'm saying is that Johnson & Johnson has  
23 been ultimately responsible for manufacturing, selling,  
24 distributing and testing Shower to Shower through the entire  
25 history of that product with Johnson & Johnson, correct?



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1 A Yes, up until its sale to Valiant.

2 Q And just to be clear, the subsidiary Johnson & Johnson,  
3 Johnson's Baby Product Company from 1979 until today, where it's  
4 called Johnson & Johnson Consumer, Inc., that's now the company  
5 that manufacturers, sells, distributes and tests Johnson's Baby  
6 Powder, correct?

7 A Yes.

8 Q And I just want to go back to Johnson & Johnson one  
9 more time, this chart we were working on yesterday.

10 Another thing that you would agree with is that  
11 Johnson & Johnson sets the parameters -- strike that.

12 Johnson & Johnson sets the guidelines for health  
13 and safety which should be adopted by all Johnson & Johnson  
14 affiliates worldwide, correct?

15 A Sorry. Can you define what you mean by "guidelines for  
16 health and safety"? Worker employee health?

17 Q Yes. Can you look at your testimony from October 23,  
18 2018, please. Thank you.

19 Going to Page 17, Line 24 -- I'm sorry, Page 138,  
20 Line 21.

21 Okay. Are you there?

22 A 138, yes.

23 Q 138, line 21, your deposition testimony from  
24 October 23, 2018:

25 "QUESTION: Now you have also told me in the past

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1 that all of the guidance for all of the different operating  
2 companies around the world on policy with regard to health  
3 and safety analysis of potential hazards comes right out of  
4 New Brunswick, the headquarters in New Jersey, correct?"

5 Your answer: "Well, the general principal is he  
6 run an office, the New Jersey office he sets the  
7 parameters, sets the guidelines for health and safety which  
8 should be adopted everywhere."

9 Did you give that testimony?

10 A Yes.

11 Q And you would agree that Johnson & Johnson has the  
12 authority to require warnings on Johnson's Baby Powder about  
13 cancer, correct?

14 A They have the authority to require warnings. If that  
15 were a medical requirement, they would, yes.

16 Q What I'm saying is if Johnson & Johnson says that it  
17 wants warnings about cancer on Johnson's Baby Powder, then  
18 warnings about cancer would go on Johnson's Baby Powder,  
19 correct?

20 A I can't see any reason why they would not if head  
21 office required any warning whether it's keep away from eyes,  
22 keep away from children, yeah.

23 Q Right. The buck stops with Johnson & Johnson New  
24 Brunswick, New Jersey, if they say there should be a warning  
25 about anything on Johnson's Baby Powder, then that command will

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1 be followed, correct?

2 MR. BROCK: Objection. Foundation.

3 THE COURT: Overruled.

4 THE WITNESS: Thank you.

5 A The way we use is guidance and on the other hand there  
6 maybe regulations in certain overseas countries which you'd have  
7 to abide by.

8 Q Let's talk about the United States.

9 A But if you're talking about the United States, then  
10 I'll answer the question as yes.

11 Q Okay. So Johnson & Johnson, if they tell Johnson &  
12 Johnson Consumer Inc. that they want a certain warning on  
13 Johnson's Baby Powder, that instruction will be followed,  
14 correct?

15 A I'm sorry, who's "they"? You said "they."

16 Q If Johnson & Johnson tells Johnson & Johnson Consumer,  
17 Inc., we want a warning about cancer or asbestos on Johnson's  
18 Baby Powder, Johnson & Johnson has the authority to do that,  
19 correct?

20 A No. I think -- the origin of the guidance or the  
21 warning would come from the Consumer, Inc., so they would be  
22 telling themselves.

23 Q Listen to my question.

24 If Johnson & Johnson tells its subsidiary, Johnson  
25 & Johnson Consumer, Inc., that they want a certain warning on

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1 THE COURT: Overruled.

2 A Again, I do not know.

3 Q And Dr. Gottlieb says here in the next sentence, "We  
4 believe" -- after the sentence about adverse event reports, Dr.  
5 Gottlieb says, "We believe this information will help us better  
6 identify specific cosmetic products and raw ingredient suppliers  
7 that may be more likely to be contaminated and inform steps with  
8 the FDA may be able to take to better protect consumers."

9 Did I read that correctly?

10 MR. BROCK: Objection.

11 THE COURT: Sustained. Next topic.

12 Q Just a few more areas for you, Dr. Hopkins.

13 Let me show you what's in evidence as Plaintiffs'  
14 Exhibit 456 and, Dr. Hopkins, I'm using Plaintiffs' Exhibit 456  
15 just to ask you about the container of Johnson's Baby Powder  
16 that was used during various years and this -- this is a  
17 container of Johnson's Baby Powder, correct?

18 A Yes.

19 Q And the Johnson's Baby Powder container has the name  
20 "Johnson & Johnson" on it, right?

21 A Yes.

22 Q That's the logo name of Johnson & Johnson from New  
23 Brunswick, New Jersey, correct?

24 A Yes.

25 Q And the container says "Purest Protection," right?

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1 A Yes.

2 Q And if you go to the back of the container, this is a  
3 container from 1985, correct?

4 A Yes. It's dated 1985.

5 Q 1985. And there is nothing on this container about --  
6 well, we can see what we've been talking about, it says "talc  
7 and fragrance are the only ingredients," correct?

8 A Yes.

9 Q It doesn't say anything about contaminants, right?

10 MR. BROCK: Objection. Asked and answered.

11 A It says "talc and fragrance."

12 THE COURT: Overruled.

13 Q Nothing about tremolite, right?

14 A It says "talc and fragrance."

15 Q Nothing about asbestos, right?

16 A It says "talc and fragrance."

17 Q Nothing about amphibole, right?

18 A Says "talc and fragrance."

19 Q Nothing about cummingtonite?

20 A It says "talc and fragrance."

21 Q There's a caution that says "close tightly" --

22 A Shall I read it?

23 Q Yes.

24 A "Close tightly after use and keep out of children's  
25 reach."

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1 Q Okay. And it doesn't say anything there about the  
2 breathing in of respirable particles during normal use like we  
3 looked at those studies where they were doing experiments on  
4 live babies and adults, correct?

5 MR. BROCK: Objection.

6 THE COURT: Sustained.

7 Q That's the only thing they say, to keep a child from  
8 grabbing it, right?

9 MR. BROCK: Objection, your Honor. Objection.  
10 Argumentative.

11 THE COURT: Also asked and answered.

12 Q There's no warning about the normal use of the product  
13 on a baby or an adult's skin, correct?

14 A No, it describes the product.

15 Q Yes or no, there's no warning about the normal use of  
16 the product on a baby or on an adult's body, correct?

17 A No, there's directions when to use it, but there's no  
18 word "warning," it's just directions when to use it.

19 Q And Johnson & Johnson used this phrase "purest  
20 protection" even though it couldn't validate using the word  
21 "purest," right?

22 A It's a hypothetical.

23 MR. BROCK: I object on relevance.

24 THE COURT: Overruled.

25 MR. BROCK: Object on relevance.